

DAN M. WINDER, ESQ.  
Nevada State Bar No. 001569  
ARNOLD WEINSTOCK, ESQ.  
Nevada State Bar No. 000810  
LAW OFFICE OF DAN M. WINDER, P.C.  
3507 W. Charleston Blvd.  
Las Vegas, NV 89102  
Telephone: (702) 474-0523  
Facsimile: (702) 474-0631  
[winderdanatty@aol.com](mailto:winderdanatty@aol.com)

Attorney for Plaintiff

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

STANLEY C. FIKES, an Individual, THE  
TALISMAN P/4, INC., Nevada corporation;

Plaintiffs,

vs.

JUMPUP, INC., a California Corporation;  
KWANG-HO LEE, an Individual; HO SOOK  
LEE, an Individual; SHAMSUDDIN SHARIF,  
an Individual; RODEO REALTY, INC., a  
California Corporation; MICHAEL WAEGHE,  
an Individual; FRANK DASARO, an Individual;  
SBARRO, INC., a New York Corporation;  
LEE & YOON CPA, a California Corporation;  
DOES I-10; and ROE ENTITIES I-10,  
inclusive

Defendants.

CASE NO.: 2:08-cv-1137

**EX PARTE MOTION FOR ENLARGEMENT OF TIME**  
**IN WHICH TO SERVE DEFENDANT FRANK DASARO**  
**[Fourth Request]**

Plaintiffs STANLEY C. FIKES and THE TALISMAN P/4, INC, by and through his attorney of record, DAN M. WINDER, ESQ., hereby moves this Court for an order granting Plaintiffs an additional two-month enlargement of time in which to effectuate service of process upon Defendant FRANK DASARO through and including February 14, 2011.

1  
2 This motion made pursuant to Nevada Rules of Procedure, Rules 4(i) and 6(b); and is  
3 supported by the accompanying points and authorities, the attached affidavit, and all pleadings on  
4 file herein. Furthermore, this motion is made in the interest of justice, fairness and equity.

5  
6 **POINTS AND AUTHORITIES**

7 **I.**  
8 **LEGAL AUTHORITIES**

9 Nevada Rules of Civil Procedure 4(i) provides:

10 *(i) Summons: Time Limit for Service.* If a service of the summons  
11 and complaint is not made upon a defendant within 120 days after  
12 the filing of the complaint and the party on whose behalf such  
13 service was required cannot show good cause why such service  
was not made within that period, the action shall be dismissed as to  
that defendant without prejudice upon the court's own initiative  
with notice to such party or upon motion.

14 Nevada Rules of Civil Procedure 6(b) provides:

15 *(b) Enlargement.* When by these rules or by a notice given  
16 thereunder or by order of court an act is required or allowed to be  
17 done at or within a specified time, the parties, by written  
18 stipulation of counsel filed in an action, may enlarge the period, or  
the court for cause shown may at any time in its discretion (1) with  
or without motion or notice order the period enlarged if request  
therefor is made before the expiration of the period originally  
prescribed or as extended by a previous order. . .

19 **II.**  
20 **ARGUMENT**

21 The Amended Complaint in this matter was filed on February 24, 2009. Said cut-off day for  
22 the service upon Defendants pursuant to NRCP 4(i) would be June 24, 2009. In this matter, Plaintiff  
23 has used every method of due diligence to locate and serve defendant, Frank Dasaro. On or about  
24 July 14, 2010, this court gave Plaintiff thirty (30) days in which to serve Defendant. In that time,  
25 Plaintiff has retained the services of a process server in Nassau/Suffolk County, New York, to locate  
26 Defendant in his last known county and state of residence. Such attempts were unsuccessful.

27 Since the Court's last Order, Plaintiff has filed a motion before this honorable court seeking  
28

1 an Order for service by publication as required by the local legal news publication.

2 Accordingly, Plaintiff now requests an additional sixty (60) days within which time to serve  
3 Mr. Dasaro, or obtain an Order for service by publication, followed by thirty (30) days of continuous  
4 publication in a local publication.

5  
6 **III.**  
**CONCLUSION**

7 Based upon the foregoing, Plaintiff's counsel respectfully requests a two-month extension  
8 of time in which to effectuate service upon Defendant, Frank Dasaro. Said two-month extension of  
9 time shall be through and including February 14, 2011.

10  
11 DATED this 14th day of December, 2010.

12 LAW OFFICE DAN M. WINDER, P.C.

13  
14 By: /s/ Dan M. Winder  
15 DAN M. WINDER, ESQ.  
16 Nevada Bar No. 001569  
17 3507 W. Charleston Blvd.  
18 Las Vegas, Nevada 89102  
19 (702) 474-0523  
20 Attorney for Plaintiff

21 IT IS SO ORDERED.

22 Robert J. Johnston  
23 UNITED STATES MAGISTRATE JUDGE  
24  
25  
26  
27  
28 DATE: DEC. 23, 2010